

Attorney Docket No. 36671-716.505

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

|                               |   |                          |
|-------------------------------|---|--------------------------|
| In re Application:            | ) |                          |
|                               | ) | Confirmation No.: 9972   |
| Kenneth F. Buechler           | ) |                          |
|                               | ) | Art Unit: 1797           |
| Application No.: 09/613,650   | ) |                          |
|                               | ) | Examiner: Lyle Alexander |
| Filed: July 11, 2000          | ) |                          |
|                               | ) | Customer No. 80984       |
| Title: DIAGNOSTIC DEVICES AND | ) |                          |
| APPARATUS FOR THE CONTROLLED  | ) |                          |
| MOVEMENT OF REAGENTS WITHOUT  | ) |                          |
| MEMBRANES                     | ) |                          |

**RESPONSE TO NOTIFICATION OF  
NON-COMPLIANT APPEAL BRIEF**

MAIL STOP APPEAL BRIEF - PATENTS  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This Response to Notification of Non-Compliant Appeal Brief is in response to the Notification of Non-Compliant Appeal Brief (37 CFR 41.37) mailed July 2, 2008. Also included in this response is a summary of the telephone interview of July 16, 2008. An Evidence Appendix and a Related Proceedings Appendix accompany this Response.

Remarks begin on page 2 of this paper.

Interview Summary begins on page 2 of this paper.

**REMARKS**

I. Interview Summary

Appellant wishes to thank the Examiner for courtesies extended during a telephonic interview held on July 16, 2008 with Appellant's representative, Richard Hector. During the interview, the Notification of Non-Compliant Appeal Brief mailed July 2, 2008 was discussed. The Examiner agreed that the Response to the Notification of Non-Compliant Appeal Brief filed on April 25, 2008 was compliant with the Notification of Non-Compliant Appeal Brief mailed on March 25, 2008.

II. Non-Compliant Appeal Brief

The Notification of Non-Compliant Appeal Brief mailed July 2, 2008 states that the Response to Notification of Non-Compliant Appeal Brief filed April 25, 2008 requires a statement such as "None" in the Evidence section and correction to Appendix C to read Related Proceedings Appendix.

While the Office has acknowledged that the Appeal Brief, in light of the Response to Notification of Non-Compliant Appeal Brief filed April 25, 2008, is now compliant, Appellant provides herewith a copy of the previously submitted Appendix B, an Evidence Appendix, and in Appendix C, a Related Proceedings Appendix.

**CONCLUSION**


All of the objections in the Notification have been addressed and Appellant submits that the Brief is compliant.

Please grant any necessary Petition for Extension of Time necessary for filing this Response. The Commissioner is authorized to charge any additional fees that may be required, including Petition fees and Extension of Time fees, to Deposit Account No. 23-2415 (Docket No. 36671-716.505).

Respectfully submitted,

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Date: August 1, 2008

By:   
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***Appendix B: Evidence Appendix***

1. U.S. Patent 4,647,543 (Stöcker) was cited by the Examiner in the non-final Office Action mailed on April 14, 2005.
2. U.S. Patent 5,091,318 (Anawis) was cited by the Examiner in the non-final Office Action mailed on July 13, 2007.
3. U.S. Patent 5,445,970 (Rohr) was cited by the Examiner in the non-final Office Action mailed on July 13, 2007.
4. U.S. Patent 5,458,852 (Buechler) was cited by the Examiner in the non-final Office Action mailed on July 13, 2007.
5. U.S. Patent 6,019,944 (Buechler) was cited by the Examiner in the non-final Office Action mailed on July 13, 2007.

***Appendix C: Related Proceedings Appendix***

None.